

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**OWEN J. ROGAL, D.D.S., P.C.,** )

Plaintiff, )

**v.** )

**SKILSTAF, INC.,** )

Defendant. )

**CIVIL ACTION NO.  
3:06-cv-00711-MHT**

**DEFENDANT’S NOTICE OF VOLUNTARY  
DISMISSAL OF ITS COUNTERCLAIM**

COMES NOW, Defendant and Counterclaimant Skilstaf Inc. (“Skilstaf” or “Defendant”) and, pursuant to Federal Rule of Civil Procedure 41, hereby voluntarily dismisses, without prejudice, the counterclaim that it filed against Plaintiff on or about October 6, 2006. As grounds for its voluntarily dismissal, Defendant states as follows:

1. On or about October 6, 2006, Defendant filed its Answer and Counterclaim against Plaintiff in the above-styled cause.

2. Federal Rule of Civil Procedure 41(a) provides, in pertinent part, that “an action may be dismissed by the plaintiff without order of court (i) by filing a notice of dismissal at any time before service by the adverse

party of an answer or of a motion for summary judgment, whichever first occurs . . . .” FED. R. CIV. P. 41(a)(1) (2006); see also FED. R. CIV. P. 41(c) (2006) (“The provisions of this rule apply to the dismissal of any counterclaim, cross-claim, or third-party claim. A voluntary dismissal by the claimant alone pursuant to paragraph (1) of subdivision (a) of this rule shall be made before a responsive pleading is served or, if there is none, before the introduction of evidence at the trial or hearing.”).

3. Under Federal Rule of Civil Procedure 41(a), a voluntary dismissal is “without prejudice.” FED. R. CIV. P. 41(a)(1) (2006).

4. To date, Plaintiff has not yet served a pleading that is responsive to Defendant’s Counterclaim.

5. Notwithstanding Defendant’s voluntary dismissal of its Counterclaim, Defendant readopts and reincorporates its Answer as if its Answer were set out in full herein.

WHEREFORE, premises considered, Defendant requests that the Court voluntarily dismiss, without prejudice, the counterclaim it filed against Plaintiff in the above-styled caused on or about October 6, 2006.

Respectfully Submitted,

s/Charles A. Stewart III

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Attorneys for Defendant  
Skilstaf, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on October 17, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Robert E. Cole  
437 Chestnut Street, Suite 218  
Philadelphia, PA 19109

Beth A. Friel  
Jeanne L. Bakker  
Mongtomery, McCracken, Walker & Rhoads  
123 South Broad Street  
Philadelphia, PA 19109

and I hereby certify that I have mailed by U. S. Postal Service the document to the following non-CM/ECF participants: None.

/s/ Amelia T. Driscoll